

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 INNOVATIVE SOLUTIONS
11 INTERNATIONAL, INC.,

Plaintiff,

v.

12 HOULIHAN TRADING CO INC., *et al.*,

13 Defendants.

CASE NO. C22-0296-JCC

14 ORDER

15 This matter comes before the Court on Plaintiff's motion to compel discovery from
16 Defendant Pilgrim's Pride Corporation ("Pilgrim's Pride") (Dkt. No. 78). Having thoroughly
17 considered the parties' briefing and the relevant record, the Court finds oral argument
18 unnecessary and hereby GRANTS the motion for the reasons explained herein.

19 **I. BACKGROUND**

20 The underlying facts of this case have been set forth in a previous order and the Court
21 will not repeat them here. (*See* Dkt. No. 77). Plaintiff first filed its complaint in March 2022
22 against Defendant Houlihan Trading Co., Inc. (Dkt. No. 1). It filed an amended complaint in
23 June 2022, adding additional defendants, including Pilgrim's Pride.¹ (Dkt. No. 14.) Plaintiff

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26 ¹ Plaintiff amended the complaint a second time in late June to correct the name of one of the other defendants.

1 effected service on Pilgrim's Pride on July 1, 2022. (Dkt. No. 29).

2 In early August 2022, Plaintiff served discovery requests on Pilgrim's Pride. (Dkt. Nos.
 3 78 at 4, 79-1.) On September 15, Pilgrim's Pride produced documents and replies to Plaintiff's
 4 interrogatories. (Dkt. No. 79-2.) On September 19, Plaintiff replied, arguing Pilgrim's Pride's
 5 production appeared incomplete. (*Id.*) The parties met and conferred on September 29 to discuss
 6 search terms and custodians to narrow the scope of discovery of electronic documents. (Dkt. No.
 7 79-5.) In a subsequent exchange of e-mails, the parties disagreed over the speed at which
 8 Pilgrim's Pride should produce documents responsive to Plaintiff's requests. (*Id.*, Dkt. No. 85 at
 9 13–23.) Plaintiff asked Pilgrim's Pride for a timeline stating when Pilgrim's Pride would provide
 10 privilege terms, relevant documents, and updated hit counts for revised search terms. (Dkt. No.
 11 79-5 at 8–9.) Pilgrim's Pride replied that it was working on gathering the documents and would
 12 produce on a rolling basis. (*Id.* at 3.) Plaintiff then filed a motion to compel, arguing that
 13 Pilgrim's Pride has failed to produce documents in a timely manner and has still failed to commit
 14 to a timeline for the production of those documents. (Dkt. No. 78.)

15 **II. DISCUSSION**

16 **A. Legal Standard**

17 “Parties may obtain discovery regarding any nonprivileged matter that is relevant to any
 18 party’s claim or defense and proportional to the needs of the case.” Fed. R. Civ. P. 26(b)(1). If
 19 requested discovery is not answered, the requesting party may move for an order compelling
 20 such discovery. Fed. R. Civ. P. 37(a)(1). An “evasive or incomplete disclosure, answer, or
 21 response must be treated as failure to . . . answer.” Fed. R. Civ. P. 37(a)(4). The Court has broad
 22 discretion to decide whether to compel disclosure of discovery. *Phillips ex rel. Estates of Byrd v.*
 23 *General Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir. 2002).

24 **B. Plaintiff’s Motion to Compel**

25 Plaintiff argues Pilgrim's Pride has not only failed to produce documents in a timely
 26 manner but has also refused to provide a timeline clarifying when it will produce the documents.

1 (Dkt. No. 78 at 8.) Pilgrim’s Pride argues that Plaintiff’s requests were initially overbroad and
 2 that it would be impossible to comply with Plaintiff’s proposed deadlines. (Dkt. No. 84 at 10–
 3 11.) Plaintiff contends that it has worked diligently to assist Pilgrim’s Pride in narrowing the
 4 search terms and Pilgrim’s Pride has failed to show that it would be unduly burdened by the
 5 discovery requests. (Dkt. No. 87 at 5–6.)

6 The Court agrees with Plaintiff. Pilgrim’s Pride states it can “only go so fast” to produce
 7 the documents and cites the large amount of hit counts resulting from Plaintiff’s search terms.
 8 (Dkt. No. 84 at 10–11.) However, Plaintiff’s requests generally appear reasonable. Pilgrim’s
 9 Pride has consistently argued it “cannot go any faster than [it is] going.” (Dkt. No. 79-5 at 3.) But
 10 instead of providing firm updates about its progress and expected production dates, Pilgrim’s
 11 Pride states it cannot go any faster, while failing to provide a concrete timeline of when it
 12 expects to produce. In the most recent correspondence between the parties before the Court,
 13 Pilgrim’s Pride says it will “*hopefully* have the first batch of documents” by the week of
 14 November 21. (Dkt. No. 85 at 42) (emphasis added). Plaintiff served its initial discovery requests
 15 in August, almost four months ago. Plaintiff’s request here is not unreasonable, especially given
 16 Pilgrim’s Pride’s failure to clearly communicate deadlines for production or to support its
 17 assertion that production of the requested documents is impossible by the requested deadline.
 18 Therefore, Plaintiff’s motion to compel is GRANTED.

19 **C. Request for Fees**

20 Plaintiff seeks its reasonable fees incurred in filing its motion to compel. (Dkt. No. 87 at
 21 7.) The Court need not order payment of fees if the opposing party’s nondisclosure was
 22 “substantially justified” or “other circumstances make an award of expenses unjust.” Fed. R. Civ.
 23 P. 37(a)(5)(ii-iii). Substantial justification exists if reasonable people could differ as to the
 24 appropriateness of the contested action. *Pierce v. Underwood*, 487 U.S. 552, 565 (1988). While
 25 the Court grants Plaintiff’s motion, reasonable minds could conclude that Pilgrim’s Pride’s
 26 failure to produce documents in a timely manner resulted from a breakdown in communication

1 between the parties. At times, Plaintiff's demands reflected unilateral and extremely tight
2 deadlines, instead of collaboratively working with Pilgrim's Pride to find a mutually agreeable
3 deadline. Moving forward, the parties are strongly encouraged to set *reasonable*, but *concrete*
4 deadlines for the production of any future documents. Plaintiff's request for fees is DENIED.

5 **III. CONCLUSION**

6 For the foregoing reasons, Plaintiff's motion to compel (Dkt. No. 78) is GRANTED.
7 Defendant Pilgrim's Pride is ORDERED to produce all documents responsive to Plaintiff's
8 initial discovery requests (along with a privilege log) and to amend its interrogatory responses no
9 later than ten (10) days from the date of this order.

10 DATED this 1st day of December 2022.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE